

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

Michael D. James, #294004)	
)	
Plaintiff,)	
)	
vs.)	Case No. 9:14-cv-4518-TLW
)	
Daniel Cotter, D. Burcinski, and S. Duffy,)	
)	
Defendants.)	ORDER
_____)	

Plaintiff Michael D. James, an inmate proceeding *pro se*, originally filed this action in the Greenville County Court of Common Pleas alleging a violation of his constitutional rights. ECF Nos. 1-1, 117. Defendants removed the action to this Court on November 25, 2014. ECF No. 1. Defendants filed a motion for summary judgment on July 2, 2015. ECF No. 61. On December 18, 2015, the Court accepted the Magistrate Judge's Report and Recommendation granting Summary Judgement and dismissing this case without prejudice. ECF No. 99. The Plaintiff appealed, and the United States Court of Appeals for the Fourth Circuit remanded this matter "with instructions to allow [Plaintiff] a reasonable time to exhaust his administrative remedies and then, if necessary, move to amend his complaint." ECF No. 109. Subsequently, the Court allowed Plaintiff time to amend his complaint, which Plaintiff did on December 16, 2016. ECF Nos. 111, 116. Defendants filed their second motion for summary judgment in this case on July 12, 2017. ECF No. 146. The Plaintiff responded to the motion, ECF No. 155, and the Defendants replied. ECF No. 156.

The matter now comes before the Court for review of the instant Report and Recommendation (the Report) filed on September 19, 2017, by United States Magistrate Judge Bristow Marchant, to whom this case was assigned pursuant to 28 U.S.C. § 636(b)(1)(A) and (B) and Local Civil Rule 73.02(B)(2)(d) and (e), (D.S.C.). ECF No. 158. In the Report, the Magistrate

Judge recommends that Defendants' Motion for Summary Judgment, ECF No. 146, be granted with respect to Plaintiff's claim asserted under § 1983, and that claim should be dismissed. The Magistrate Judge also recommends remanding the remaining state claims. The deadline to file objections was October 3, 2017. However, Plaintiff failed to file objections to the Report. This matter is now ripe for disposition.

The Court is charged with conducting a *de novo* review of any portion of the Report to which a specific objection is registered, and may accept, reject, or modify, in whole or in part, the recommendations contained therein. 28 U.S.C. § 636. However, in the absence of objections to the Report, the Court is not required to give any explanation for adopting the Magistrate Judge's recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). In such a case, "a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). The Court notes that Plaintiff alleges he was denied access to the courts when his documents were lost. However, the Magistrate Judge, having reviewed the facts in detail and after significant legal analysis, states that the allegations by Plaintiff do not present evidence of any docketing information or any probative evidence to show that the loss of any legal papers prejudiced Plaintiff's ability to contest his conviction in any way. Thus, although Plaintiff makes conclusory allegations regarding the legal documents, Plaintiff has made no showing of actual injury or alleged any specific harm. *See Cochran v. Morris*, 73 F. 3d 1310, 1317 (4th Cir. 1996). For these reasons, the Court agrees with the analysis by the Magistrate Judge and agrees that summary judgment should be granted as to Plaintiff's constitutional claims.

In light of the standard when a party fails to respond to a Magistrate's Report and Recommendation, the Court has carefully reviewed the Report, the relevant filings, and the applicable law. After careful consideration, the Court accepts the detailed factual summary and legal analysis by the Magistrate Judge and notes that Plaintiff has not filed objections. It is therefore **ORDERED** that the Magistrate Judge's September 19, 2017, Report and Recommendation, ECF No. 158, is **ACCEPTED**. For the reasons articulated by the Magistrate Judge, Defendants' Motion, ECF No. 146, is **GRANTED** as to Plaintiff's § 1983 claim, and the remaining claims are hereby **REMANDED** to the Greenville County Court of Common Pleas for further proceedings.

IT IS SO ORDERED.

s/ Terry L. Wooten

Chief United States District Judge

January 26, 2018
Columbia, South Carolina